

REMARKS

Claims 10-17 have been amended and claims 18-25 added to more clearly define the present invention.

Amendment to claims 10-17 have been made in accordance with the Examiner's suggestions for overcoming informalities identified by the Examiner.

Claims 18-25 have been added to clarify possible ambiguities which may have resulted in the Examiner's rejection of claims 10 and 11.

The Applicant appreciates the Examiner's acknowledgement of allowable subject matter set forth in original claims 12-14 and 17.

Claims 10 and 11 have been rejected by the Examiner under 35 USC 102(b) as being anticipated by DE 35 46 832 to Peri-Werk Artur Schworer. In this rejection the Examiner states that the Schworer reference discloses a turnbuckle device 10 capable of mutually clamping two concrete shell elements across a joint therebetween with the shell elements each including a frame with longitudinal and transverse studs and a turnbuckle having means 12, 15 for retaining a turnbuckle device on one of the longitudinal and transverse struts and positioning the turnbuckle device across abutting edges of the shell elements.

The Applicant respectfully disagrees with the Examiner's analysis of the structure of the cited reference. In that regard, the Applicant has added claims

18-25 to more particularly emphasize that the turnbuckle device includes means for retaining a turnbuckle device on one of the longitudinal transverse struts during separation of the shell elements and further means for positioning the turnbuckle device across the abutting edges of the concrete shell elements. The means for retaining are designed to hold the device within the concrete shell element in a way that it cannot fall off by itself. This is clearly outside the scope and teachings of the cited reference.

The Applicants submits that anticipation under 35 USC 102 is established only when a single prior art referenced discloses, either expressly or under principles of inherency, each and every element of a claimed invention. See RCA Corp. v. Applied Digital Data Systems, Inc. 221 USPQ 385 (Fed. Cir. 1984).

With respect to means-plus-function limitations in the claim, the prior art reference cannot anticipate the claimed invention absent structure in the prior art reference which is capable of performing the functional limitations of the "means". See in re Mott 194 USPQ 305 (CCPA 1977). Where a critical function for establishing patentability in the claimed subject matter may in fact be an inherent characteristics of the prior art device, the initial burden is on the Examiner to establish a reasonable basis for concluding that the characteristic in questionable inherently occur.

In the case at hand, the cited reference shows no structure such as the means for retaining the turnbuckle device on one of the struts so that it will not fall off on

its own, i.e. under its own weight. It is clear that there is no way that the turnbuckle on the cited reference will maintain its position on the strut if clamping pressure is not applied.

The turnbuckle in accordance with the present invention allows the construction of large shell surfaces and less time and in a simpler way as set forth in page 3, first full paragraph of the present application.

When the turnbuckle device in accordance with the present invention is unlocked and mounted to the concrete shell wall via the retaining means, it can be displaced with one hand in the control fashion without being removed from the concrete shell element and the clamping means can be activated or released with the other hand if required.

A skilled worker does not have to hold the weight of the turnbuckle device in accordance with the present invention since it is guided and displaceably supported on the transverse or longitudinal strut. This facilitates the handling of the invented turnbuckle device and the effort required for alignment, release or clamping of the turnbuckle device.

New independent claim 18 emphasizes this structural feature by providing for means for retaining the turnbuckle device on one of the longitudinal and transverse struts during separation of the shell elements. No new matter has been added by this amendment to the claims in view of the hereinabove referenced paragraph appearing on page 3 of the original application.

The Applicant submits that the cited reference has no provision for retaining the subject means on one of the longitudinal transverse struts during separation of the concrete elements. Further, there is no suggestion of such structure which functions in a manner, as does the structure of the present invention which enables the facilitation of handling of the turnbuckle in accordance with the present invention.

Accordingly, the Applicant submits that the rejection of claims 10 and 11 under 35 USC 102(b) is not sustainable. These arguments further apply to claim 11 and the newly added claims.

Claims 10 and 11, 15 and 16 have been rejected by the Examiner under 35 USC 102(b) as being anticipated by Hunnebeck GmbH (EB201887). In this rejection, the Examiner states that Hunnebeck GmbH discloses a turnbuckle device capable of mutually clamping two concrete shell elements across the joint therebetween with the shell elements each including a frame with longitudinal and transverse struts and the turnbuckle including means 2, 22 for retaining a turnbuckle device on one of the longitudinal transverse struts and positioning a turnbuckle across abutting edges of the shell elements.

The Applicant traverses this rejection with the same arguments hereinabove set forth with regard to rejection of claims 10 and 11 on the basis of DE 35 46 832.

Clearly, there is no means for retaining the turnbuckle on one of the longitudinal and transverse struts as set forth in the claims. Therefore, the Applicant respectfully request the withdrawal of the rejection of claims 10 and 11, 15 and 16 under 35 USC 102(b) on the basis of the Hunnebeck GmbH reference.

In view of the arguments hereinabove set forth and amendment to the claims, it is submitted that each of the claims now in the application define patentable subject matter not anticipated by the art of record and not obvious to one skilled in this field who is aware of the references of record. Reconsideration and allowance are respectively requested.

RECEIVED

Respectfully submitted,

OCT 22 2003

GROUP 3600

Walter A. Hackler, Reg. No. 27,792

Attorney of Record

2372 S.E. Bristol, Suite B

Newport Beach, California 92660

Tel: (949) 851-5010

Fax: (949) 752-1925

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS
BEING DEPOSITED WITH THE U.S. POSTAL SERVICE
AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED
TO: COMMISSIONER OF PATENTS AND TRADEMARKS,
WASHINGTON, D.C. 20231, ON

10/17/03
(DATE SIGNED)

WALTER A. HACKLER
REG. NO. 27,792